

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

PREMIUM POINT INVESTMENTS LP,
ANILESHA AHUJA a/k/a NEIL AHUJA, AMIN
MAJIDI, JEREMY SHOR, ASHISH DOLE, and
FRANK DINUCCI, JR.,

Defendants.

18 Civ. 4145 (JPC)

~~[PROPOSED]~~ FINAL JUDGMENT AS TO DEFENDANT JEREMY SHOR

The Securities and Exchange Commission (the “Commission”) having filed an Amended Complaint and Defendant Jeremy Shor (“Defendant”) having entered a general appearance; consented to the Court’s jurisdiction over Defendant and the subject matter of this action; consented to entry of this Final Judgment; waived findings of fact and conclusions of law; and waived any right to appeal from this Final Judgment:

I.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Section 10(b) of the Securities Exchange Act of 1934 (the “Exchange Act”) [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) promulgated thereunder [17 C.F.R. §§ 240.10b-5(a) and (c)], by using any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange, in connection with the purchase or sale of any security:

- (a) to employ any device, scheme, or artifice to defraud; or
- (b) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

II.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Sections 17(a)(1) and (3) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. §§ 77q(a)(1) and (3)] in the offer or sale of any security by the use of any means or instruments of transportation or communication in interstate commerce or by use of the mails, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud; or
- (b) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

III.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating Sections 206(1) and (2) of the Investment Advisers Act of 1940 (the "Advisers Act") [15 U.S.C. §§ 80b-6(1) and 80b-6(2)] from, while

acting as investment advisers, by the use of any means or instruments of interstate commerce, directly or indirectly:

- (a) employing any device, scheme, or artifices to defraud any client or prospective client; and
- (b) to engage in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

IV.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that Defendant is permanently restrained and enjoined from violating, directly or indirectly, Advisers Act Section 206(4) [15 U.S.C. § 80b-6(4)] and Rule 206(4)-8(a)(2) [17 C.F.R. § 275.206(4)-8(a)(2)] promulgated thereunder by, while acting as an investment adviser to a pooled investment vehicle, engaging in any act, practice, or course of business that is fraudulent, deceptive, or manipulative with respect to any investor or prospective investor in the pooled investment vehicle.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, as provided in Federal Rule of Civil Procedure 65(d)(2), the foregoing paragraph also binds the following who receive actual notice of this Final Judgment by personal service or otherwise: (a) Defendant's officers, agents, servants, employees, and attorneys; and (b) other persons in active concert or participation with Defendant or with anyone described in (a).

V.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, based on Defendant's sworn representations in his Statement of Financial Condition dated May 30, 2023, and other documents and information submitted to the Commission, the Court is not ordering Defendant to pay a civil penalty. The determination not to impose a civil penalty is contingent upon the accuracy and completeness of Defendant's Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant, petition the Court for an order requiring Defendant to pay the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or this Final Judgment; (2) contest the allegations in the Amended Complaint filed by the Commission; (3) assert that payment of a civil penalty should not be ordered; (4) contest the imposition of the maximum civil penalty allowable under the law; or (5) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

VI.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that the Consent is incorporated herein with the same force and effect as if fully set forth herein, and that Defendant shall comply with all of the undertakings and agreements set forth therein.

VII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that, solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, the allegations in the Amended Complaint are true and admitted by Defendant, and further, any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under this Final Judgment or any other judgment, order, consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19).


VIII.

IT IS HEREBY FURTHER ORDERED, ADJUDGED, AND DECREED that this Court shall retain jurisdiction of this matter for the purposes of enforcing the terms of this Final Judgment.

IX.

There being no just reason for delay, pursuant to Rule 54(b) of the Federal Rules of Civil Procedure, the Clerk is ordered to enter this Final Judgment forthwith and without further notice.

Dated: November 7, 2023


HON. JOHN P. CRONAN
UNITED STATES DISTRICT JUDGE

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

**PREMIUM POINT INVESTMENTS LP,
ANILESHA AHUJA a/k/a NEIL AHUJA, AMIN
MAJIDI, JEREMY SHOR, ASHISH DOLE, and
FRANK DINUCCI, JR.,**

Defendants.

18 Civ. 4145 (JPC)

CONSENT OF DEFENDANT JEREMY SHOR

1. Defendant Jeremy Shor (“Defendant”) acknowledges having been served with the Amended Complaint in this action, enters a general appearance, and admits the Court’s jurisdiction over Defendant and over the subject matter of this action.

2. Defendant pleaded guilty to criminal conduct relating to certain matters alleged in the Amended Complaint in this action. Specifically, in *United States v. Ahuja, et al.*, 18 Cr. 328 (KPF) (S.D.N.Y.), Defendant pleaded guilty to one count of securities fraud [15 U.S.C. §§ 78j(b) and 78ff; 17 C.F.R. § 240.10b-5]. In connection with that plea, Defendant admitted the facts set out in the transcript of his plea allocution that is attached as Exhibit A to this Consent.

3. Defendant hereby consents to the entry of the final Judgment in the form attached hereto (the “Final Judgment”) and incorporated by reference herein, which, among other things, permanently restrains and enjoins Defendant from violations of Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) [15 U.S.C. § 78j(b)] and Rules 10b-5(a) and (c) thereunder [17 C.F.R. §§ 240.10b-5(a) and (c)], Sections 17(a)(1) and 17(a)(3) of the Securities Act of 1933 (“Securities Act”) [15 U.S.C. §§ 77q(a)(1) and (3)]; and Sections 206(1), (2), and (4)

of the Investment Advisers Act of 1940 (“Advisers Act”) [15 U.S.C. §§ 80b-6(1), 80b-6(2), and 80b-6(4)] and Rule 206(4)-8(a)(2) thereunder [17 C.F.R. § 275.206(4)-8(a)(2)].

4. Defendant acknowledges that the Court is not imposing a civil penalty based on Defendant’s sworn representations in Defendant’s Statement of Financial Condition dated May 30, 2023, and other documents and information submitted to the Commission. Defendant further consents that if at any time following the entry of the Final Judgment the Commission obtains information indicating that Defendant’s representations to the Commission concerning Defendant’s assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant, petition the Court for an order requiring Defendant to pay the maximum civil penalty allowable under the law. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate, or incomplete in any material respect as of the time such representations were made. In any such petition, the Commission may move the Court to consider all available remedies, including but not limited to ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of the Court’s Final Judgment. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of this Consent or the Final Judgment; (2) contest the allegations in the Amended Complaint; (3) assert that payment of a civil penalty should not be ordered; (4) contest the imposition of the maximum civil penalty allowable under the law; or (5) assert any defense to liability or remedy, including but not limited to any statute of limitations defense.

5. Defendant waives the entry of findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure.

6. Defendant waives the right, if any, to a jury trial and to appeal from the entry of the Final Judgment.

7. Defendant enters into this Consent voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commission or any member, officer, employee, agent, or representative of the Commission to induce Defendant to enter into this Consent.

8. Defendant agrees that this Consent shall be incorporated into the Final Judgment with the same force and effect as if fully set forth therein.

9. Defendant will not oppose the enforcement of the Final Judgment on the ground, if any exists, that it fails to comply with Rule 65(d) of the Federal Rules of Civil Procedure, and hereby waives any objection based thereon.

10. Defendant waives service of the Final Judgment and agrees that entry of the Final Judgment by the Court and filing with the Clerk of the Court will constitute notice to Defendant of its terms and conditions. Defendant further agrees to provide counsel for the Commission, within thirty days after the Final Judgment is filed with the Clerk of the Court, with an affidavit or declaration stating that Defendant has received and read a copy of the Final Judgment.

11. Consistent with 17 C.F.R. § 202.5(f), this Consent resolves only the claims asserted against Defendant in this civil proceeding. Defendant acknowledges that no promise or representation has been made by the Commission or any member, officer, employee, agent, or representative of the Commission with regard to any criminal liability that may have arisen or may arise from the facts underlying this action or immunity from any such criminal liability. Defendant waives any claim of Double Jeopardy based upon the settlement of this proceeding, including the imposition of any remedy or civil penalty herein. Defendant further acknowledges that the Court's entry of a permanent injunction may have collateral consequences under federal or state law and

the rules and regulations of self-regulatory organizations, licensing boards, and other regulatory organizations. Such collateral consequences include, but are not limited to, a statutory disqualification with respect to membership or participation in, or association with a member of, a self-regulatory organization. This statutory disqualification has consequences that are separate from any sanction imposed in an administrative proceeding. In addition, in any disciplinary proceeding before the Commission based on the entry of the injunction in this action, Defendant understands that he shall not be permitted to contest the factual allegations of the Amended Complaint in this action.

12. Defendant understands and agrees to comply with the terms of 17 C.F.R. § 202.5(e), which provides in part that it is the Commission's policy "not to permit a defendant or respondent to consent to a judgment or order that imposes a sanction while denying the allegations in the complaint or order for proceedings." As part of Defendant's agreement to comply with the terms of Section 202.5(e), Defendant acknowledges the guilty plea for related conduct described in paragraph 2 above, and: (i) will not take any action or make or permit to be made any public statement denying, directly or indirectly, any allegation in the Amended Complaint or creating the impression that the Amended Complaint is without factual basis; (ii) will not make or permit to be made any public statement to the effect that Defendant does not admit the allegations of the Amended Complaint, or that this Consent contains no admission of the allegations, without also stating that Defendant does not deny the allegations; (iii) upon the filing of this Consent, Defendant hereby withdraws any papers filed in this action to the extent that they deny any allegation in the Amended Complaint; and (iv) stipulates solely for purposes of exceptions to discharge set forth in Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, that the allegations in the Amended Complaint are true, and further, that any debt for disgorgement, prejudgment interest, civil penalty or other amounts due by Defendant under the Final Judgment or any other judgment, order,

consent order, decree or settlement agreement entered in connection with this proceeding, is a debt for the violation by Defendant of the federal securities laws or any regulation or order issued under such laws, as set forth in Section 523(a)(19) of the Bankruptcy Code, 11 U.S.C. § 523(a)(19). If Defendant breaches this agreement, the Commission may petition the Court to vacate the Final Judgment and restore this action to its active docket. Nothing in this paragraph affects Defendant's: (i) testimonial obligations; or (ii) right to take legal or factual positions in litigation or other legal proceedings in which the Commission is not a party.

13. Defendant hereby waives any rights under the Equal Access to Justice Act, the Small Business Regulatory Enforcement Fairness Act of 1996, or any other provision of law to seek from the United States, or any agency, or any official of the United States acting in his or her official capacity, directly or indirectly, reimbursement of attorney's fees or other fees, expenses, or costs expended by Defendant to defend against this action. For these purposes, Defendant agrees that Defendant is not the prevailing party in this action since the parties have reached a good faith settlement.

14. Defendant agrees to waive all objections, including but not limited to, constitutional, timeliness, and procedural objections, to the administrative proceeding that will be instituted when the Final Judgment is entered.

15. Defendant agrees that the Commission may present the Final Judgment to the Court for signature and entry without further notice.

16. Defendant agrees that this Court shall retain jurisdiction over this matter for the purpose of enforcing the terms of the Final Judgment.

Dated: 9/8/23

[Signature]
Jeremy Shor

On Sept 8, 2023, _____, a person known to me, personally appeared before me and acknowledged executing the foregoing Consent.

Notary Public
MARINA ZAVULONOVA
NOTARY PUBLIC, STATE OF NEW YORK
Commission Expires:
NO. 01ZA6181785
QUALIFIED IN QUEENS COUNTY
COMMISSION EXPIRES FEBRUARY 11, 2024

[Signature]

Exhibit A

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

18 Cr. 328 (KPF)

ANILESH AHUJA and JEREMY SHOR,

Defendants.

Sentence

New York, N.Y.
April 22, 2022
11:00 a.m.

Before:

HON. KATHERINE POLK FAILLA,

District Judge

APPEARANCES

DAMIAN WILLIAMS

United States Attorney for the
Southern District of New York

BY: ANDREA M. GRISWOLD

DANIEL M. GITNER

Assistant United States Attorneys

PAUL, WEISS, RIFKIND, WHARTON & GARRISON, LLP (NYC)
Attorneys for Defendant Ahuja

BY: RICHARD C. TARLOWE

ROBERTO FINZI

-AND-

PAUL WEISS (NY)

Attorneys for Defendant Ahuja

BY: DAVID FRIEDMAN

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APPEARANCES (Continued)

KIRKLAND & ELLIS LLP (NYC)
Attorneys for Defendant Ahuja
BY: JOHN P. DEL MONACO

WEDDLE LAW PLLC
Attorneys for Defendant Shor
BY: JUSTIN S. WEDDLE
JULIA I. CATANIA

Also Present: Todd Kaneshiro, FBI Special Agent

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(Case called)

MS. GRISWOLD: Good morning, your Honor.

Andrea Griswold for the government.

Mr. Gitner will introduce himself. We are also joined by Special Agent Todd Kaneshiro.

MR. GITNER: Good morning, your Honor.

David Gitner for the government.

THE COURT: Good morning. Thank you. We have a number of folks introducing themselves.

Mr. Tarlowe, I'll begin with you being you were the first to stand.

MR. TARLOWE: Yes, your Honor.

Richard Tarlowe and Roberto Finzi on behalf of Mr. Ahuja. Mr. Ahuja is here as well, and we're also joined by our colleague David Friedman, as well as John Del Monaco from Kirkland & Ellis.

THE COURT: Good morning to each of you.

Mr. Ahuja, good morning to you, sir.

DEFENDANT AHUJA: Good morning, your Honor.

THE COURT: Mr. Weddle.

MR. WEDDLE: Good morning, your Honor.

Justin Weddle and Julia Catania from Weddle Law PLLC, and I'm sitting next to my client Mr. Shor.

THE COURT: Thank you. Mr. Shor, good morning to you as well.

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1 I appreciate you all wearing masks because of your
2 proximity to each other. I'm far enough away from you that I'm
3 not wearing one.

4 Let me talk to you first about a first couple of
5 housekeeping matters, please. With the masks and with a
6 recent, I'll put in quotes, upgrade to the technology of this
7 courtroom, it is sometime difficult to hear what's going on.
8 If you find it easier to remain seated when you are speaking
9 with me, that's fine by me, just please bring the microphone
10 close to you.

11 Mr. Tarlowe and Mr. Finzi, it was my expectation that
12 I would be conducting a plea proceeding at the same time as to
13 both defendants.

14 Is that your understanding as well?

15 MR. TARLOWE: Yes, your Honor. We think that makes
16 sense.

17 THE COURT: Mr. Weddle, the same?

18 MR. WEDDLE: Yes, your Honor.

19 THE COURT: All right. As many hundreds of pleas as I
20 have done as a judge and a prosecutor, this is my first
21 11(c)(1)(C) plea. And in hoping to get it right, I looked at
22 some past ones and only found a transcript to one. In that
23 case, the sentencing was all one just paragraph where the judge
24 just said, all right, basically go forward and say no more.

25 I'd like to have a sense from the parties as to degree

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1 to which I am speaking about the requirements of Rule 32 of the
2 Federal Rules of Criminal Procedure. For example, there have
3 been PSRs prepared. I believe there will be at least some to
4 them, and there will be certainly modifications to the
5 judgments in this case. But if I can be colloquial with you,
6 how much Rule 32 do you want at sentencing?

7 For example, am I inquiring as to your client's
8 respective reviews of the PSR? Will there be written -- or
9 excuse me, oral sentencing statements to me, or will the
10 parties be simply incorporating that which they said to me at
11 the original sentencing, plus whatever is embodied in the
12 respective plea agreement?

13 I just want to know because I don't want to -- I want
14 to do this correctly, and I know how to do a sentencing, but
15 this is an unusual sentencing to do.

16 Ms. Griswold, what is the government's contemplation
17 of what sentencing looks like in this case?

18 MS. GRISWOLD: Thank you, your Honor.

19 We believe that the Court can rely on the record from
20 the prior proceeding and that we don't need a fulsome Rule 32
21 inquiry, so long as the defendants are in agreement with that
22 and are not requesting the inquiry be done again. And we would
23 not expect to be advocating or arguing at length as to the
24 sentencing.

25 THE COURT: At all?

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1 MS. GRISWOLD: If your Honor would indulge us, we have
2 a very brief statement that I believe Mr. Gitner will offer
3 when we get there.

4 THE COURT: I will keep that in mind. Thank you.

5 Mr. Tarlowe, I should have asked. You just happen to
6 be in my line of vision. Am I directing the questions to you
7 or Mr. Finzi this morning?

8 MR. WEDDLE: I think to me, your Honor.

9 THE COURT: Thank you, then I just have, towards
10 sentencing?

11 MR. TARLOWE: We're in agreement with the government.
12 We think it's appropriate for the Court to rely on the existing
13 record, and we don't think there's any need, unless the Court
14 has questions, which obviously we're happy to address, but
15 absent any additional questions, we don't think there's a need
16 to supplement the current record.

17 THE COURT: Thank you.

18 Mr. Weddle.

19 MR. WEDDLE: I agree with Mr. Tarlowe's position on
20 this. And of course, I've spoken to Mr. Shor and he
21 understands he has a right to be heard, and our plan is to have
22 him not be heard here at the sentencing proceeding. I think
23 we'll have to see what the government's statement is with
24 respect to sentencing, but we were planning to say nothing
25 beyond what's already in the record, your Honor.

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1 THE COURT: Understood. Perhaps what I'll do then is
2 I'll simply give you and your respective clients an opportunity
3 to be heard, understanding that you may waive that right. And
4 I will ask for your assistance, it would be my preference to do
5 this particular proceeding once and not twice. I imagine you
6 have the same views, so working together I'm sure we will get
7 this right.

8 Mr. Tarlowe, may I speak directly with your client?

9 MR. WEDDLE: Yes, of course, your Honor.

10 THE COURT: Thank you.

11 And, Mr. Weddle, may I speak directly with your
12 client?

13 MR. WEDDLE: Yes, your Honor.

14 THE COURT: Thank you. I appreciate your standing.

15 Mr. Ahuja, begin withing you. It is my understanding,
16 sir, that today you wish to enter a plea of guilty to Count
17 Three of the indictment in this case which charges you with
18 securities fraud.

19 It is that correct, sir?

20 DEFENDANT AHUJA: Yes, it is.

21 THE COURT: And that plea today, I understand, is
22 going to be entered pursuant to a plea agreement with the
23 government. Is that also correct?

24 DEFENDANT AHUJA: Yes.

25 THE COURT: Thank you. You're welcome to be seated.

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1 Mr. Shor, the same two questions. You and I both know
2 about the trial. We were both there. It is my understanding,
3 sir, that in lieu of a second trial in this case, it is your
4 wish today to plead to Count Three of the indictment charging
5 you with securities fraud. Am I correct

6 DEFENDANT SHOR: Yes, your Honor.

7 THE COURT: And, Mr. Shor, is that plea entered
8 pursuant to a plea agreement? It will be entered pursuant to a
9 written plea agreement with the government.

10 DEFENDANT SHOR: Yes, your Honor.

11 THE COURT: You're also welcome to be seated.
12 Gentleman, before I can accept your guilty pleas, I need to you
13 ask a series of questions.

14 Let me speak to you about what purposes generally
15 these questions serve. The first thing that I would like to do
16 is to ensure that you are competent to enter a plea of guilty,
17 that you can see and hear and understand what is going on in
18 this courtroom.

19 After that, I would like to review with you the rights
20 that you have and that you would be waiving or giving up by
21 entering a guilty plea. I'd like to speak to you about the
22 charge to which each of you proposes to plead guilty, and the
23 defenses -- excuse me, the penalties associated with that
24 charge, and then I intend to ask each of you what it is you did
25 that makes you believe that you are guilty of this offense.

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1 What I'd like to underscore today, because I know you
2 all for so many years, I think I can say this easily, most
3 important thing is that you understand what is happening in
4 this courtroom. If any question that I ask you is confusing or
5 if for any reason either of you wishes to speak with your
6 attorney, just let me know and we'll pause and we'll take
7 whatever time you need to be clear as to the question that I'm
8 asking or the response that you wish to give.

9 If I don't hear from you, I will understand that you
10 are understanding my question and are prepared to answer.

11 What I'm going to do now is I'm going to have my
12 deputy Ms. Noriega swear both of you in. Thank you.

13 (Defendants sworn)

14 THE DEPUTY CLERK: Mr. Ahuja, please state and spell
15 your full name.

16 DEFENDANT AHUJA: Anilesh Ahuja, A-N-I-L-E-S-H,
17 A-H-U-J-A.

18 THE DEPUTY CLERK: Thank you.

19 Mr. Shor, please state and spell your full name.

20 DEFENDANT SHOR: Jeremy Andrew Shor, J-E-R-E-M-Y,
21 A-N-D-R-E-W, last name Shor, S-H-O-R.

22 THE COURT: Mr. Ahuja and Mr. Shor, the significance
23 of my having placed you under oath is that if you answer any of
24 the questions that I'm about to ask you falsely, you may be
25 prosecuted for a separate offense known as perjury.

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1 As I hinted at I hope at the beginning of this
2 proceeding, my intent is to ask these questions once and then
3 turn to each of you.

4 And Mr. Shor, I know you'll take no offense, I'm
5 looking at Mr. Ahuja first because he's on my left. If the
6 roles were reversed, I'd look at you first. I really don't
7 think you care enough being the first or second person to
8 answer, and I appreciate you nodding that you do not.

9 Mr. Ahuja, do you understand the significance of being
10 placed under oath?

11 DEFENDANT AHUJA: Yes.

12 THE COURT: Mr. Shor?

13 DEFENDANT SHOR: I do, your Honor.

14 THE COURT: And again, I take no offense if you wish
15 to remain seated, so long as the microphones are brought closer
16 to you. I will let you decide what is most comfortable for
17 you. All that I care about and that the reporter cares about
18 is that we hear you.

19 Mr. Ahuja, how old are you?

20 DEFENDANT AHUJA: Fifty-four.

21 THE COURT: How far did you go in school, sir?

22 DEFENDANT AHUJA: I have undergrad degree in
23 economics.

24 THE COURT: Mr. Shor, how old are you, sir?

25 DEFENDANT SHOR: I'm 50 years old.

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THE COURT: And how far did you go in school, sir?

DEFENDANT SHOR: I have a Ph.D.

THE COURT: This question or this discussion is really directed more to counsel. Counsel, in connection with each of the sentencings in this case, I was given information about medical and/or mental health issues regarding each of the defendants in this case.

Assuming you agree, I would not actually require them to site any condition they may have on the record. What I would do instead is to recognize that I have looked at and refreshed my recollection as to any medical or mental health conditions they may have cited to me in connection with their sentencing, and simply to ask whether as a result of those conditions or any medication they are taking for them, they have any difficulty seeing, hearing or understanding.

Mr. Tarlowe, is that acceptable to you?

MR. TARLOWE: Yes, your Honor, it is.

THE COURT: Mr. Weddle?

MR. WEDDLE: Yes, your Honor.

THE COURT: Thank you.

Mr. Ahuja, you know about any medical or mental health conditions that you may have and the medications that you are taking for them. My question to you this morning, sir, is whether any of those conditions or the medications you may take for them causes you any difficulty in seeing or hearing or

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1 understanding these proceedings?

2 DEFENDANT AHUJA: No, your Honor.

3 THE COURT: Mr. Shor, the same question. Is there any
4 condition that you have or medication that you are taking that
5 impairs in any way your ability to see or hear or understand
6 these proceedings?

7 DEFENDANT SHOR: No, your Honor.

8 THE COURT: Mr. Ahuja, have you ever been treated or
9 hospitalized for any form of addiction, including drug or
10 alcohol addiction?

11 DEFENDANT AHUJA: No, your Honor.

12 THE COURT: Mr. Shor?

13 DEFENDANT SHOR: I have, your Honor.

14 THE COURT: And is there anything about -- right now
15 today, is there anything about any treatment protocol you may
16 have received in the past that would impair your ability to
17 see, to hear or to understand what is happening today?

18 DEFENDANT SHOR: There is not, your Honor.

19 THE COURT: Thank you.

20 Mr. Ahuja, in the past two days, have you taken any
21 drug or medicine or pill that would impair your ability to
22 understand these proceedings?

23 DEFENDANT AHUJA: No, your Honor.

24 THE COURT: Mr. Shor, the same question?

25 DEFENDANT SHOR: No, your Honor.

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1 THE COURT: Mr. Ahuja, is your mind clear this
2 morning, sir?

3 DEFENDANT AHUJA: Yes, your Honor.

4 THE COURT: You understand what is happenings in these
5 proceedings?

6 DEFENDANT AHUJA: Yes, your Honor.

7 THE COURT: Mr. Shor, is your mind clear today, sir?

8 DEFENDANT SHOR: Crystal, your Honor.

9 THE COURT: And, sir, do you understand what is
10 happening in these proceedings?

11 DEFENDANT SHOR: I do, your Honor.

12 THE COURT: Mr. Tarlowe, have you had a sufficient
13 opportunity along with your colleagues to discuss this matter
14 with Mr. Ahuja?

15 MR. TARLOWE: Yes, your Honor, we have.

16 THE COURT: Do you believe he understands the rights
17 that he has and would be waiving by entering a plea of guilty?

18 MR. TARLOWE: Yes.

19 THE COURT: Do you believe him capable of
20 understanding the nature of these proceedings?

21 MR. TARLOWE: Yes.

22 THE COURT: Mr. Tarlowe, do you have any doubt as to
23 Mr. Ahuja's competence to enter a plea of guilty if that's what
24 he wishes to do?

25 MR. TARLOWE: No, your Honor.

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1 THE COURT: Mr. Weddle, have you had a sufficient
2 opportunity along with your colleague to discuss this matter
3 with Mr. Shor?

4 MR. WEDDLE: Yes, your Honor.

5 THE COURT: Do you believe he understands the rights
6 that he has and would be waiving by entering a plea of guilty?

7 MR. WEDDLE: Yes, your Honor.

8 THE COURT: Do you believe he is capable of
9 understanding these proceedings?

10 MR. WEDDLE: Yes, your Honor.

11 THE COURT: If your client wishes to plead guilty, do
12 you have any doubt as to his competence to do so?

13 MR. WEDDLE: I do not, your Honor.

14 THE COURT: Ms. Griswold, do you have any doubt as to
15 either defendants' competence to plead guilty if he wishes to
16 do so?

17 MS. GRISWOLD: I do not.

18 THE COURT: Mr. Ahuja and Mr. Shor, based on our
19 discussions this morning, which would include both your answers
20 to my questions and my observations of your demeanor here in
21 court, and based as well on the conversations that I've had
22 with your attorneys and with the attorney for the government, I
23 find that you are fully competent to enter an informed plea of
24 guilty if you wish to do so.

25 I'm going to ask you a few questions about the

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1 indictment in this case. And let me explain to both of you
2 that from time to time I will be asking about discussions that
3 you've had with your attorney.

4 When I do so, I'm not asking for the details of those
5 communications. I'm not trying at all to invade the
6 attorney/client privilege. What I'm doing is trying to ensure
7 that certain topic matters were covered by your attorney with
8 you, so please keep that in mind when I ask these questions.

9 I begin by asking, Mr. Ahuja, have you read the
10 indictment in this case?

11 DEFENDANT AHUJA: Yes, your Honor.

12 THE COURT: Mr. Shor?

13 DEFENDANT SHOR: I have, your Honor.

14 THE COURT: And have you, Mr. Ahuja, had the
15 sufficient opportunity to speak with your attorney about the
16 charge to which you intend to plead guilty and any defenses
17 that you may have to that charge?

18 DEFENDANT AHUJA: Yes, your Honor.

19 THE COURT: Mr. Shor?

20 DEFENDANT SHOR: Yes, your Honor.

21 THE COURT: Without giving me the details of the
22 communication, has your attorneys explained to you the
23 consequences of entering a plea of guilty?

24 DEFENDANT AHUJA: Yes, your Honor.

25 DEFENDANT SHOR: Yes, your Honor.

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1 THE COURT: Are you satisfied with your attorneys'
2 representation of you in this matter?

3 DEFENDANT AHUJA: Yes, your Honor.

4 DEFENDANT SHOR: Yes, your Honor.

5 THE COURT: What I will do now, gentleman, is to speak
6 with you about certain Constitutional rights that you have and
7 that you would be waiving or giving up by entering a guilty
8 plea.

9 I appreciate your attention thus far, and I imagine
10 you will continue to pay attention, and please let me know if
11 there's anything that is unclear or any reason why you wish to
12 speak with your attorneys before answering.

13 Under the Constitution and laws of the United States,
14 you have the right to continue with your plea of not guilty to
15 all of the charges contained in the indictment.

16 Do you understand that, Mr. Ahuja?

17 DEFENDANT AHUJA: Yes, your Honor.

18 THE COURT: Mr. Shor?

19 DEFENDANT SHOR: Yes, your Honor.

20 THE COURT: If you continued with your plea of not
21 guilty, you would be entitled to a speedy and public trial by a
22 jury on the charges contained in the indictment in this case.
23 Do you understand that, sir?

24 DEFENDANT AHUJA: Yes, your Honor.

25 DEFENDANT SHOR: Yes, your Honor.

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1 THE COURT: At a trial, you would be presumed to be
2 innocent, and the government would be required to prove you
3 guilty by competent evidence beyond a reasonable doubt before
4 you could be found guilty.

5 Do you understand that, sir?

6 DEFENDANT AHUJA: Yes, your Honor.

7 DEFENDANT SHOR: Yes, your Honor.

8 THE COURT: A jury of 12 people would have to agree
9 unanimously that you were guilty of the offenses charged in the
10 indictment. You would not have to prove that you were innocent
11 if you were to proceed to trial.

12 Do you understand that?

13 DEFENDANT AHUJA: Yes, your Honor.

14 DEFENDANT SHOR: Yes, your Honor.

15 THE COURT: At a trial and at every stage of your
16 prosecution, you are entitled to the assistance of an attorney.
17 If and to the extent that you cannot afford one, one would be
18 appointed for you at public expense, free of cost to you in
19 order to represent you.

20 Do you understand that?

21 DEFENDANT AHUJA: Yes, your Honor.

22 DEFENDANT SHOR: I do, your Honor.

23 THE COURT: At a trial, the witnesses for the
24 government would have to come to court and testify in your
25 presence. Your attorney could cross-examine the witnesses for

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1 the government. Your attorneys could object to evidence
2 offered by the government, and they could offer evidence on
3 your behalf if you wanted them to do so.

4 You would also have the right to have subpoenas issued
5 or other documents or process used in order to compel witnesses
6 to testify in your defense.

7 Do you understand that?

8 DEFENDANT AHUJA: Yes, your Honor.

9 DEFENDANT SHOR: I do, your Honor.

10 THE COURT: At a trial, you would have a right to
11 testify if you wanted to do so, and you would have the right
12 not to testify if you wanted not to do so.

13 If you decided not to testify, no one, including the
14 jury, could draw any inference or suggestion of guilt from your
15 decision not to testify.

16 Do you understand that?

17 DEFENDANT AHUJA: Yes, your Honor.

18 DEFENDANT SHOR: Yes, your Honor.

19 THE COURT: Another consequence of entering a guilty
20 plea in this particular fashion is that you waive or give up
21 your right to seek suppression or exclusion of the government's
22 evidence against you. Are you aware of that?

23 DEFENDANT AHUJA: Yes, your Honor.

24 DEFENDANT SHOR: Yes, your Honor.

25 THE COURT: Have you had a sufficient opportunity to

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1 discuss with your attorneys whether there is a basis to seek
2 suppression of part or all of the government's evidence against
3 you?

4 DEFENDANT AHUJA: Yes, your Honor.

5 DEFENDANT SHOR: Yes, your Honor.

6 THE COURT: Do you understand that if you were
7 convicted after a trial, you would have the right to appeal
8 from the jury's verdict?

9 DEFENDANT AHUJA: Yes, your Honor.

10 DEFENDANT SHOR: I do, your Honor.

11 THE COURT: Do you understand also that even now as
12 you are entering this guilty plea, you have the right to change
13 your mind and to proceed with your previously entered pleas of
14 not guilty and to go to trial on the charges contained in this
15 indictment?

16 DEFENDANT AHUJA: Yes, your Honor.

17 DEFENDANT SHOR: Yes, your Honor.

18 THE COURT: If you plead guilty and if I accept your
19 guilty plea, you will give up your right to trial and the other
20 rights that I've been discussing with you, other than your
21 right to an attorney, because you have the right to an attorney
22 whether you plead guilty or go to trial.

23 But if you plead guilty and if I accept your guilty
24 plea, there will be no trial and I will enter a judgment of
25 guilty, and I will sentence you based on your plea today and

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1 whatever discussions we have regarding the sentencing
2 proceedings today.

3 Mr. Ahuja, do you understand that?

4 DEFENDANT AHUJA: Yes, your Honor.

5 DEFENDANT SHOR: I do, your Honor.

6 THE COURT: If you plead guilty, there is also a
7 degree to which you will have to give up your right not to
8 incriminate yourself, because I will ask you questions later in
9 this proceeding to confirm for myself that you are pleading
10 guilty because you are in fact guilty of this offense charged
11 in Count Three and not for some other reason. You will have to
12 admit and acknowledge your guilt of the offense charged in
13 Count Three.

14 Do you understand that?

15 DEFENDANT AHUJA: Yes, your Honor.

16 DEFENDANT SHOR: Yes, your Honor.

17 THE COURT: Mr. Ahuja, do you understand the rights
18 that I have been discussing with you for the past few minutes?

19 DEFENDANT AHUJA: Yes, your Honor.

20 THE COURT: Is it your wish today to give up your
21 right for trial and the other rights that I've been discussing
22 with you and enter a plea of guilty?

23 DEFENDANT AHUJA: Yes, your Honor.

24 THE COURT: Mr. Shor, do you understand each of the
25 rights that I've been discussing with you?

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DEFENDANT SHOR: I do, your Honor.

THE COURT: Is it your wish today, sir, to give up your right to trial and the other rights that I've been discussing with you and enter a plea of guilty to Count Three of the indictment.

DEFENDANT SHOR: Yes, your Honor.

THE COURT: I'm now speaking to both of you. You are charged in Count Three with securities fraud, and that is in violation of Title 15, United States Code, Sections 78j(b) and 78ff, Title 17, Code of Federal Regulations, Section 240.10(b)(5), and Title 18, United States Code, Section 2. I ask you to listen to me now because I'm going to outline for you the elements of offense of securities fraud.

If this case were to proceed to trial, the government would have to prove the following elements beyond a reasonable doubt:

First, that in connection with the purchase or sale of securities, you employed a scheme, device or artifice to defraud or made an untrue statement of a material fact or omitted to state a material fact which made what was said under the circumstances misleading, or engaged in an act, practice or course of business that operated or would operate as a fraud or deceit upon a purchaser or seller.

Second, that you acted knowingly, willfully and with the intent to defraud; and third, that you knowingly used or

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1 caused to be used any means or instruments of transportation or
2 communication in interstate commerce or the use of the mails in
3 furtherance of the fraudulent conduct.

4 The government would also be required to prove venue
5 by a preponderance of the evidence.

6 Do you understand, Mr. Ahuja, that if you were to go
7 to trial, that is what the government would have to prove at
8 trial?

9 DEFENDANT AHUJA: Yes, your Honor.

10 THE COURT: Mr. Shor?

11 DEFENDANT SHOR: Yes, your Honor.

12 THE COURT: What I would like to do now, gentleman, is
13 to speak to you about the maximum possible penalties that are
14 associated with Count Three of the indictment, and I'm using
15 the term "maximum" deliberately. I mean the most that could
16 possibly be imposed. This is not to suggest that this is what
17 you're necessarily going to receive, but I just want to make
18 sure you understood what the maximum penalties were. And I'm
19 going to begin by discussing possible restrictions on your
20 liberty.

21 The maximum term of imprisonment for the offense
22 charged in Count Three is 20 years imprisonment.

23 Do you understand that, Mr. Ahuja?

24 DEFENDANT AHUJA: Yes, your Honor.

25 THE COURT: Mr. Shor, do you understand that?

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1 DEFENDANT SHOR: Yes, your Honor.

2 THE COURT: Any term of imprisonment could be followed
3 by a term of up to three years of supervised release, and let
4 me just explain to you both what I mean when I use the term
5 "supervised release." It is a period of time where one is
6 subject to supervision by the United States probation office.
7 There would be terms and conditions of supervised release that
8 one would have to follow.

9 If the person were to violate the terms and conditions
10 of supervised release, the possibility exists that that person
11 could be sent to prison without a jury trial to serve time on
12 the violation of supervised release. If that were the case,
13 they would get no credit for the time that had served on any
14 prior prison sentence. They would get no credit for time spent
15 on post-release supervision in compliance with the terms of
16 supervised release.

17 Mr. Ahuja, do you understand what I'm saying on the
18 concept of supervised release?

19 DEFENDANT AHUJA: Yes, your Honor.

20 THE COURT: Mr. Shor?

21 DEFENDANT SHOR: I do, your Honor.

22 THE COURT: Please understand as well, there is no
23 parole in the federal system. If you were sentence to a term
24 of imprisonment, you would not be released early on parole.
25 There is an opportunity to earn credit for good behavior and

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1 that amount tends to vary, so I say as an average that for
2 terms of imprisonment, one would have to serve approximately 85
3 percent of the term to which they are sentenced.

4 Mr. Ahuja, do you understand that?

5 DEFENDANT AHUJA: Yes, your Honor.

6 THE COURT: Mr. Shor?

7 DEFENDANT SHOR: I do, your Honor.

8 THE COURT: In addition to potential restrictions on
9 your liberty, the maximum possible punishment also includes
10 certain financial penalties.

11 The maximum allowable fine is the greatest of these
12 three things; \$5 million, twice the gross pecuniary gain
13 derived from the offense, or twice the gross pecuniary loss to
14 persons other than yourself. I must order a mandatory special
15 assessment of \$100 per count of conviction.

16 In certain circumstances, there may be restitution
17 obligations if there are individuals who are injured or
18 entities that are injured, and there are other circumstances of
19 forfeiture obligations. I do not believe either is appropriate
20 today.

21 Mr. Ahuja, do you understand that these potential
22 restrictions on your liberty and these potential financial
23 penalties are the maximum possible penalties associated with
24 the Count Three offense?

25 DEFENDANT AHUJA: Yes, your Honor.

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1 THE COURT: Mr. Shor?

2 DEFENDANT SHOR: Yes, your Honor.

3 THE COURT: Gentleman, I'm going to ask you questions.

4 And my experience is that not all of these questions are
5 applicable to everyone. I do want to make sure, however, that
6 I ask them, and I will begin by asking, Mr. Ahuja, are you a
7 United States citizen?

8 DEFENDANT AHUJA: Yes, I am.

9 THE COURT: Were you born here or naturalized?

10 DEFENDANT AHUJA: I was naturalized, your Honor.

11 THE COURT: In certain circumstances, though I don't
12 believe in this one, a guilty plea can have adverse immigration
13 consequences, including the possibility of detention by
14 immigration authorities or removal or deportation from the
15 United States.

16 Have you had an opportunity to discuss with your
17 attorneys whether there might be any immigration consequences
18 as result of this guilty plea?

19 DEFENDANT AHUJA: I have, your Honor.

20 THE COURT: Is it still your wish today, sir, to plead
21 guilty?

22 DEFENDANT AHUJA: Yes, your Honor.

23 THE COURT: Mr. Shor, are you a United States?

24 DEFENDANT SHOR: I am, your Honor.

25 THE COURT: Were you born here, sir?

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1 DEFENDANT SHOR: I was, your Honor.

2 THE COURT: Then I will ask you a different set of
3 questions, and you're welcome to stand if you like and I'll
4 just ask Mr. Ahuja them in a moment.

5 Do you understand that as a result of this guilty
6 plea, you could lose certain valuable civil rights, to the
7 extent that you have them today or could obtain them in the
8 future. These would include the right to vote, the right to
9 hold public office, the right to serve on a jury and the right
10 to possess a firearm.

11 DEFENDANT SHOR: I do, your Honor.

12 THE COURT: Thank you. You're welcome to be seated,
13 sir.

14 Mr. Ahuja, you just heard me review with Mr. Shor the
15 potential civil consequences of a guilty plea. Were you able
16 to hear me, sir?

17 DEFENDANT AHUJA: Yes, your Honor.

18 THE COURT: Are you aware that as a result of your
19 guilty plea, you also might lose these civil rights?

20 DEFENDANT AHUJA: Yes, your Honor.

21 THE COURT: And it is still your wish to go forward?

22 DEFENDANT AHUJA: Yes, your Honor.

23 THE COURT: Mr. Tarlowe, it is my understanding that
24 there are no other outstanding prosecutions of Mr. Ahuja; am I
25 correct?

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MR. TARLOWE: Yes, your Honor, that is correct.

THE COURT: Is there an outstanding SEC proceeding?

MR. TARLOWE: There is, Judge.

THE COURT: Thank you.

And, Mr. Weddle, the same two questions?

MR. WEDDLE: Same answers, your Honor.

THE COURT: Thank you.

Mr. Ahuja, please understand that resolving the case before me doesn't resolve any other matters that you may have, including any parallel proceedings in this case.

Do you understand that, sir?

DEFENDANT AHUJA: Yes, your Honor.

THE COURT: And, Mr. Shor, do you understand?

DEFENDANT SHOR: I do, your Honor.

THE COURT: Mr. Ahuja, this is a bit of an unusual case given the manner in which it is being resolved, but I would still like to know whether you have discussed the process of sentencing with your attorneys?

DEFENDANT AHUJA: Yes, I have, your Honor.

THE COURT: And you and I have already been together for a prior sentencing proceeding, so my understanding is that you are familiar with the obligations that I have and the considerations that I undertake in imposing an individualized sentence; is that correct?

DEFENDANT AHUJA: Yes, your Honor.

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1 THE COURT: Mr. Shor, do you recall as well speaking
2 with your attorneys about the process of sentencing?

3 DEFENDANT SHOR: I do, your Honor.

4 THE COURT: And we have gone through the process once
5 before, so you have familiarity with my obligations and the
6 role that each of us plays at sentencing?

7 DEFENDANT SHOR: I do, your Honor.

8 THE COURT: Mr. Ahuja, I understand that there is a
9 written plea agreement entered into between you and your
10 attorneys and the attorneys for the government; is that
11 correct?

12 DEFENDANT AHUJA: Yes, your Honor.

13 THE COURT: In connection with this proceeding, I've
14 been given a letter dated March 9 of 2022 from Ms. Griswold and
15 Mr. Gitner to your attorneys Mr. Finzi and Mr. Tarlowe and
16 Mr. Friedman. It has the docket number of this case, your
17 name, and I'm going to hold up a copy, but I'll ask, do you
18 have a copy of that document, sir?

19 DEFENDANT AHUJA: Yes, I do, your Honor.

20 THE COURT: I can see it from here. We see it is the
21 same thing, sir. I'm marking my copy as Court Exhibit 1 just
22 so that you understand.

23 The copy that I have, sir, has six pages. Perhaps
24 yours also has six pages?

25 DEFENDANT AHUJA: Yes, it does, your Honor.

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1 THE COURT: Can I ask you please to turn to page 6,
2 sir?

3 DEFENDANT AHUJA: I'm there, your Honor.

4 THE COURT: On the version that I have, I have four
5 signatures. Does your page 6 also have four signatures on it,
6 sir?

7 DEFENDANT AHUJA: Yes, it does, your Honor.

8 THE COURT: Is one of those signatures yours?

9 DEFENDANT AHUJA: Yes, it is, your Honor.

10 THE COURT: Did you sign this document in or about the
11 last day or so in the presence of your attorney?

12 DEFENDANT AHUJA: Yes, your Honor.

13 THE COURT: Before you signed this document, did you
14 read it?

15 DEFENDANT AHUJA: Yes, I did, your Honor.

16 THE COURT: If you had any questions about it, were
17 you able to resolve those issues with your attorney?

18 DEFENDANT AHUJA: Yes, your Honor.

19 THE COURT: At the time you signed this document, did
20 you understand what it provided?

21 DEFENDANT AHUJA: Yes, your Honor.

22 THE COURT: And just to reiterate, you understand this
23 to be your written plea agreement with the government?

24 DEFENDANT AHUJA: Yes, your Honor.

25 THE COURT: Mr. Shor, I also have a letter also dated

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1 March 9 of 2022, to Mr. Weddle from the United States
2 Attorney's Office, Ms. Griswold and Mr. Gitner. It contains as
3 well a reference to your name and the docket number in this
4 case. Do you have a copy of that document in front of you,
5 sir?

6 DEFENDANT SHOR: I do, your Honor.

7 THE COURT: I see that is the same document.

8 Sir, is this your plea agreement with the government?

9 DEFENDANT SHOR: I believe so, your Honor.

10 THE COURT: I'll ask you to confirm with your attorney
11 that it is.

12 DEFENDANT SHOR: It is, your Honor.

13 THE COURT: Sir, I've marked this as Court Exhibit 2,
14 and I'm going to ask you, please, to turn to the last page of
15 this document, which I see you are at already. It is for both
16 of us page 6.

17 Are there four signatures on your version of this
18 document, sir?

19 DEFENDANT SHOR: Yes, your Honor.

20 THE COURT: Is one of them yours?

21 DEFENDANT SHOR: Yes, your Honor.

22 THE COURT: Did you sign this today in the presence of
23 your attorney?

24 DEFENDANT SHOR: I did not, your Honor.

25 THE COURT: Did you sign this yesterday, sir?

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DEFENDANT SHOR: I signed it yesterday.

THE COURT: I see that it was signed today.

Before you signed this document, did you read it?

DEFENDANT SHOR: I did, your Honor.

THE COURT: To the extent you had any questions about it, were you able to resolve those by speaking with your attorneys?

DEFENDANT SHOR: Yes, your Honor.

THE COURT: At the time that you signed this document, did you understand its contents?

DEFENDANT SHOR: I did, your Honor.

THE COURT: Thank you.

One of the features of each of these agreements is that you have agreed on the guidelines range that applies in this case, and this is my understanding. You are agreeing that the guidelines range that's calculated at your prior sentencing proceeding adjusted to a count for acceptance of responsibility can be used for today's purposes.

Mr. Shor, do I understand that correctly?

DEFENDANT AHUJA: Yes, your Honor.

THE COURT: I'm sorry, Mr. Ahuja. I knew I was going to do that. I won't do it again. Thank you, sir. I'll look at you and say the right name.

Is that in fact your understanding of this agreement?

DEFENDANT AHUJA: Yes, your Honor.

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1 THE COURT: Mr. Shor?

2 DEFENDANT SHOR: Yes, your Honor.

3 THE COURT: Thank you.

4 And so let me ask the parties, there's a discussion
5 about the accounting for acceptance of responsibility. Perhaps
6 this is an academic issue. It was my intent to reduce by three
7 levels, because even though there was a trial in this case, I'm
8 being advised well before a second trial of the desire to plead
9 guilty.

10 But let me please ask counsel if they have a different
11 view as to the appropriate acceptance credit?

12 MS. GRISWOLD: We agree, your Honor, it should be
13 three points.

14 THE COURT: Mr. Tarlowe?

15 MR. TARLOWE: We agree.

16 THE COURT: And Mr. Weddle?

17 MR. WEDDLE: We agree.

18 THE COURT: Mr. Ahuja, the sentence guidelines were
19 previously calculated at 262 to 327 months. With a three-level
20 reduction for acceptance of responsibility, they are
21 recalculated as 188 to 235 months.

22 At Mr. Shor's sentencing proceeding, the guidelines
23 were calculated as 168 to 210 months. And with a three-level
24 reduction for acceptance of responsibility, they are now
25 recalculated as 121 to 151 months.

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1 Mr. Ahuja, in your plea agreement you and the
2 government have agreed upon a sentence, and that sentence is a
3 sentence of time served with no following term of supervised
4 release, no fine, no forfeiture and no restitution.

5 Is that your understanding of the sentence to which
6 you have agreed with the government?

7 DEFENDANT AHUJA: Yes, it is, your Honor.

8 THE COURT: Do you understand, sir, that because this
9 proceeding and this plea agreement are both being done under
10 Federal Rule of Criminal Procedure 11(c)(1)(C), I may accept or
11 reject your plea agreement.

12 Do you have that understanding?

13 DEFENDANT AHUJA: Yes, your Honor.

14 THE COURT: If I accept your plea agreement, I am
15 required to impose the sentence that you and the government
16 have agreed to and that I have just described.

17 Do you understand that, sir?

18 DEFENDANT AHUJA: Yes, your Honor.

19 THE COURT: Do you also understand that if I reject
20 the agreement, you would have the right to withdraw your guilty
21 plea?

22 DEFENDANT AHUJA: Yes, your Honor.

23 THE COURT: I also understand that you and the
24 government have agreed that if I were to reject your plea
25 agreement or you were to withdraw your guilty plea, the plea

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1 agreement that we've been talking about and that I've marked as
2 Court Exhibit 1 will become null and void.

3 Do you understand that, sir?

4 DEFENDANT AHUJA: Yes, your Honor.

5 THE COURT: In your plea agreement, you are waiving
6 your right to appeal or otherwise challenge a sentence of time
7 served and a special assessment that is less than or equal to
8 \$100.

9 In other words, if I sentence you to time served and
10 if I order a special assessment of \$100 or something less than
11 that, you would have no right to appeal or otherwise challenge
12 those components of that sentence.

13 Do you understand that, sir?

14 DEFENDANT AHUJA: Yes, your Honor.

15 THE COURT: Mr. Shor, let me please turn to you.

16 You also have entered into a plea agreement pursuant
17 to the Federal Rule of Criminal Procedure 11(c)(1)(C), you and
18 the government have agreed upon the same sentence that I just
19 previewed with Mr. Ahuja, which is a sentence of time served,
20 no term of supervised release, no fine, no forfeiture and no
21 restitution.

22 Is that your understanding of the sentence to which
23 you and the government have agreed?

24 DEFENDANT SHOR: It is, your Honor.

25 THE COURT: And under Rule 11(c)(1)(C), I may accept

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1 or reject your plea agreement.

2 And just to reiterate what I said with Mr. Ahuja, if I
3 accept the plea agreement, I am required to impose the sentence
4 to which you and the government have agreed and that I've just
5 described. And if I reject your plea agreement, you will have
6 the right to withdraw your guilty plea.

7 Do you understand each of those things, sir?

8 DEFENDANT SHOR: I do, your Honor.

9 THE COURT: Please also understand that you and the
10 government have agreed that if I reject your plea agreement or
11 if you were to withdraw your guilty plea, the plea agreement
12 will become null and void.

13 Do you understand that, sir?

14 DEFENDANT SHOR: I do, your Honor.

15 THE COURT: In your plea agreement -- and perhaps what
16 I should have done is just -- this is on page -- for me page 3
17 of the plea agreement. It looks like page 3 for each of you.
18 It's the first of the other provisions, and it is a series of
19 waivers. So perhaps I should have asked this.

20 Mr. Shor, have you read this paragraph of the plea
21 agreement?

22 DEFENDANT SHOR: I have, your Honor.

23 THE COURT: And you understand, sir, that in this
24 paragraph, you have waived your right to appeal or otherwise
25 challenge a sentence of time served and/or a special assessment

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1 that is less than or equal to \$100.

2 So if I were to sentence you to time serve and order a
3 special assessment of \$100 or less, you would have no right to
4 appeal or otherwise to challenge those components of your
5 sentence. Is that correct?

6 DEFENDANT SHOR: That's correct, your Honor.

7 THE COURT: Mr. Ahuja, I should have asked you a
8 moment ago, sir, whether you understood these provisions. I
9 could point them out to you in the agreement. I see that
10 you're looking at them as I'm talking to you.

11 Do you know specifically the paragraph to which I was
12 referring when I asked you those questions

13 DEFENDANT AHUJA: Yes, your Honor.

14 THE COURT: Ms. Griswold, are there specific
15 provisions of this plea agreement that you would like me to
16 call to the attention of either defendant in this case?

17 MS. GRISWOLD: No, your Honor, not other than what
18 you've already done with respect to the appellate waiver.

19 THE COURT: All right.

20 Mr. Ahuja, does this plea agreement that I've marked
21 as Court Exhibit 1 constitute your complete and total
22 understanding of the entire agreement that you have with the
23 government?

24 DEFENDANT AHUJA: Yes, your Honor.

25 THE COURT: Sir, has anything been left out of this

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1 agreement to the best of your knowledge?

2 DEFENDANT AHUJA: No, your Honor.

3 THE COURT: Other than what's contained in this
4 agreement, has anyone made you any promise or offered you any
5 type of inducement in order to get you to sign this agreement
6 or to plead guilty in this case?

7 DEFENDANT AHUJA: No, your Honor.

8 THE COURT: Has anyone forced you or threatened you to
9 sign this agreement or to plead guilty in this case?

10 DEFENDANT AHUJA: No, your Honor.

11 THE COURT: Mr. Shor, does your written plea agreement
12 which has been marked as Court Exhibit 2 constitute your
13 complete and total understanding of the entire agreement that
14 you have with the government?

15 DEFENDANT SHOR: It does, your Honor.

16 THE COURT: To the best of your knowledge, sir, has
17 anything been left out?

18 DEFENDANT SHOR: No, your Honor.

19 THE COURT: Other than what's contained in this
20 agreement, has anyone made you any promise or offered you any
21 type of inducement in order to get you to sign this agreement
22 or to plead guilty here today?

23 DEFENDANT SHOR: No, your Honor.

24 THE COURT: Has anyone threatened you or forced you to
25 sign this agreement or to plead guilty here today?

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1 DEFENDANT SHOR: No, your Honor.

2 THE COURT: Mr. Ahuja, just in the interest of
3 completeness, we've been talking about various provisions of
4 the agreements and I see that in addition to the ones that I
5 specifically discussed with you, there is an agreement that the
6 parties have that if this plea were entered into and accepted,
7 there would be the withdrawal of certain appeals currently at
8 the United States Court Of appeals for the Second Circuit.

9 That is on page 2 of the agreement in the paragraph
10 that begins, "It is further agreed." May I direct your
11 attention to that page, sir. You're there. Thank you.

12 Mr. Ahuja, is it in fact the case that upon acceptance
13 of the plea and this agreement by the district court, the
14 parties will be executing stipulations regarding the dismissal
15 of the two appeals or the withdrawal of the two appeals?

16 DEFENDANT AHUJA: Yes, your Honor.

17 THE COURT: Have I misstated it?

18 MS. GRISWOLD: Yes. Both parties have already filed
19 stipulations in the Circuit so as to return jurisdiction to
20 your Honor. The stipulations indicate that if the pleas are
21 not accepted, that the appeals can be re-filed, but at this
22 point they have been withdrawn.

23 THE COURT: All right.

24 Mr. Tarlowe, do you agree?

25 MR. TARLOWE: Yes, your Honor.

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1 THE COURT: And Mr. Weddle, do you agree?

2 MR. WEDDLE: Yes, your Honor.

3 THE COURT: All right. Mr. Weddle, given that, do I
4 still need to review this paragraph with your client?

5 MR. WEDDLE: No, your Honor.

6 THE COURT: Mr. Ahuja, at this time I would like you
7 to tell me in your own words what it is that you did that makes
8 you believe that you are guilty of Count Three in the
9 indictment.

10 I will ask you this favor, sir. Again, just given the
11 acoustics of this courtroom, I'll ask you, please, to speak
12 into the microphone and to speak slower and louder than you
13 think you need to, and you may begin when you're ready.

14 MR. TARLOWE: Your Honor, before Mr. Ahuja does that,
15 I would note for the Court what I think will be apparent to
16 your Honor, Mr. Ahuja is reading from a document that was
17 prepared with the assistance of counsel, but does reflect
18 Mr. Ahuja's own thoughts and words, and we also previously
19 shared this with the government as well.

20 THE COURT: Okay. Mr. Ahuja, I actually was going to
21 ask you that question. Let me just confirm, sir. Irrespective
22 of who wrote these notes down, they are in fact your thoughts?

23 DEFENDANT AHUJA: Yes, your Honor, these are my
24 thoughts.

25 THE COURT: I will hear them now. Thank you.

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1 DEFENDANT AHUJA: In or about 2008, I co-founded
2 Premium Point Investments, or PPI, where I served as chief
3 executive officer and chief investment officer. As a member of
4 PPI's investment committee, I was generally aware of the marks
5 that were used to compute the net asset of PPI's funds. I also
6 worked with others at PPI to report the net asset value to
7 investors based on the marks provided by PPI's traders.

8 Beginning in or around the fall of 2015, I came to
9 understand that there was a high probability that the net asset
10 value of the New Issue Opportunity Fund was not being
11 calculated through strict adherence by PPI's traders to PPI's
12 valuation policy.

13 Despite having that understanding, I continued
14 reporting the net asset value to investors and consciously
15 failed to investigate the possibility of non-compliance with
16 PPI's valuation policy in the New Issue Opportunity Fund.

17 As a result, between the fall of 2015 and early 2016,
18 I was aware that there was a high probability that the net
19 asset value of the New Issue Opportunity Fund was not being
20 calculated and reported to investors in accordance with PPI's
21 valuation policy, and I consciously avoided confirming that
22 fact.

23 THE COURT: Sir, at the time that this was taking
24 place, where were your offices located?

25 DEFENDANT AHUJA: On 56 and 5th.

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1 THE COURT: At the time that you engaged in this
2 conduct, did you understand that what you were doing was wrong
3 and illegal?

4 DEFENDANT AHUJA: I was aware. I was aware that there
5 was a high probability that the NAV of the fund was being
6 calculated in a way that was not consistent with the
7 investors -- what the investors had been told, and it was wrong
8 for me not to follow-up on that.

9 THE COURT: Mr. Ahuja, may I understand that in the
10 business of PPI and in the communications with investors, there
11 were ways in which interstate commerce or interstate wires were
12 implicated, either the use of wires to communicate this
13 information, telephone calls, things of that nature or the use
14 of national securities exchange?

15 DEFENDANT AHUJA: Yes, your Honor.

16 THE COURT: Which of those, please?

17 DEFENDANT AHUJA: Telephone and emails.

18 THE COURT: Mr. Tarlowe, do you know of any valid
19 defense that would prevail at trial or any reason why your
20 client should not be permitted to plead guilty?

21 MR. TARLOWE: No, your Honor.

22 THE COURT: Ms. Griswold, are there additional
23 questions that you would like me to ask of Mr. Ahuja?

24 MS. GRISWOLD: No, your Honor. We just note that we
25 also believe it's proper that your Honor consider the entire

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1 factual record before the Court, including the evidence at the
2 prior trial in determining whether or not there is a sufficient
3 factual basis for the plea.

4 THE COURT: It is precisely for that reason that
5 unless the parties ask me to do so, I'm not going to ask the
6 government to outline for me the evidence it would present at
7 trial, because we have in fact seen that evidence. All right.

8 Mr. Ahuja, do you understand that as I consider
9 whether there's a sufficient factual record for a guilty plea
10 in this case, I may consider everything that you've said to me
11 right now, and I may consider the evidence that was presented
12 at trial?

13 DEFENDANT AHUJA: Yes, your Honor.

14 THE COURT: Mr. Tarlowe, do you agree that there is a
15 sufficient factual predicate for a guilty plea?

16 MR. TARLOWE: Yes, your Honor.

17 THE COURT: Do you know of any reason why I should not
18 accept your client's plea of guilty?

19 MR. TARLOWE: No, your Honor.

20 THE COURT: Ms. Griswold, do you agree that there is a
21 sufficient factual predicate for a guilty plea by Mr. Ahuja to
22 Count Three of the indictment?

23 MS. GRISWOLD: I do, your Honor.

24 THE COURT: If he wishes to plead guilty, is there any
25 reason why I should not accept it?

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MS. GRISWOLD: No, your Honor.

THE COURT: Mr. Ahuja, at this time do you wish to enter a plea of guilty to Count Three of indictment S1:18 CR 328?

DEFENDANT AHUJA: Yes, your Honor.

THE COURT: Thank you. You're both welcome to be seated.

Mr. Shor, at this time I would like to hear from you with respect to what it is you did that makes you believe that you are guilty of the offense charged in Count Three of the indictment.

May I ask, sir, do you also have notes to aid you in speaking with me this morning?

DEFENDANT SHOR: I do.

THE COURT: Irrespective of who wrote them up, are they your thoughts?

DEFENDANT SHOR: They are my thoughts.

THE COURT: I will ask you as I asked Mr. Ahuja, please be mindful of the acoustical limitations of this room and to speak louder and slower than you think you need to, and please speak when you are ready, sir.

DEFENDANT SHOR: Thank you, your Honor.

Between approximately April of 2014 and March of 2016, I was a trader for the mortgage credit fund at Premium Point Investments.

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1 The month-end net asset value, or NAV, of the mortgage
2 credit fund was an important measure of the fund's performance
3 and was disseminated to investors and potential investors
4 through the mail and interstate wire communications.

5 Beginning in or about the fall of 2015, as part of the
6 month-end NAV calculation process, I obtained pricing data
7 which resulted in an NAV I believed was too high.

8 I did two things which led to this result.

9 I pressured brokers to provide security specific marks
10 which were higher than where I thought they should have been.
11 I knew that brokers had an incentive to provide favorable marks
12 to me in the hopes of obtaining business in the form of trades.

13 Second, I obtained sector spreads I knew would result
14 in higher security specific prices, even though market bids for
15 the securities were decreasing, by using PPI's mid-level
16 pricing system, in which for some bonds half of the bid-ask was
17 combined with the bid side marks as a lever.

18 I believe that the valuations conveyed to the
19 investors exceeded my best estimate of the valuations for
20 certain of the bonds I traded.

21 I participated in these efforts despite thinking they
22 were wrong, and knowing that the increase valuations would be
23 conveyed to investors and potential investors and relied upon
24 them. Thank you, your Honor.

25 THE COURT: Thank you, sir.

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1 Mr. Shor, while you're standing, when you were having
2 these conversations with brokers, when you were engaged in the
3 process or your participation in calculating net asset values,
4 were you located at least in part in Manhattan?

5 DEFENDANT SHOR: Yes, your Honor.

6 THE COURT: And you heard me ask Mr. Ahuja about
7 whether wires, faxes, telephone calls, things of that nature,
8 were implicated by the communications in which he was involved.
9 In your communications with brokers, sir, regarding these net
10 asset values or in the dissemination of these net asset values
11 to investors, did that involve wires, emails, telephones,
12 things of that nature, sir?

13 DEFENDANT SHOR: Yes, your Honor.

14 THE COURT: Mr. Weddle, do you know of any valid
15 defense that would prevail at trial or any reason why your
16 client should not be permitted to plead guilty?

17 MR. WEDDLE: There's no reason that my client should
18 not be permitted to plead guilty, your Honor.

19 THE COURT: Ms. Griswold, are there additional
20 questions you would like me to ask of Mr. Shor?

21 MS. GRISWOLD: No, your Honor.

22 THE COURT: Mr. Weddle, you heard Ms. Griswold say
23 earlier that I might consider the trial record. I don't know
24 that I need to because I believe that these allocutions
25 suffice, but do you have a view as to my ability to do that

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1 here?

2 MR. WEDDLE: I agree that that is permitted, your
3 Honor.

4 THE COURT: Mr. Weddle, do you agree that there is a
5 sufficient factual predicate for a guilty plea in this case?

6 MR. WEDDLE: I do, your Honor.

7 THE COURT: If your client wishes to plead guilty, is
8 there any reason why I should not accept it?

9 MR. WEDDLE: There is not, your Honor?

10 THE COURT: Ms. Griswold, the same two questions?

11 MS. GRISWOLD: No reason not to accept it, your Honor.

12 THE COURT: And there's a factual predicate?

13 MR. ROBINSON: Yes, your Honor.

14 THE COURT: Of course. I should have asked you both
15 questions.

16 Mr. Shor, at this time do you wish to enter a plea of
17 guilty to Count Three of indictment S1:18 CR 328?

18 DEFENDANT SHOR: I do, your Honor.

19 THE COURT: Thank you, sir. You may be seated.

20 Mr. Ahuja and Mr. Shor, because you have acknowledged
21 that you are in fact guilty as charged in Count Three of the
22 indictment, because I am satisfied that you are aware of your
23 rights, including your rights, your respective rights to go to
24 trial and that you're aware of the consequences of your plea,
25 including the range of penalties or the sentence in this case

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1 that may be imposed, I find that you are knowingly and
2 voluntarily pleading guilty.

3 I am accepting your guilty pleas, and I am entering a
4 judgment of guilty for each of you on Count Three of the
5 indictment. It is my understanding that the parties today wish
6 to proceed to sentencing.

7 Mr. Tarlowe, is it sufficient for me to say that you
8 and your client have reviewed the presentence investigation
9 report in this case. You are asking for the guidelines in that
10 report to be recalculated to reflect the acceptance of
11 responsibility credit, and that otherwise there's nothing else
12 to discuss with respect to the presentence investigation
13 report?

14 MR. TARLOWE: Yes, your Honor. I think that's all
15 correct, yes.

16 THE COURT: Let me try and break it down because I
17 don't want to be confusing, you'll all let me know if these are
18 things that you think we simply do not have to discuss, but
19 we've had a sentencing. There is a PSR.

20 Mr. Tarlowe, may I question your client specifically
21 on this?

22 MR. TARLOWE: Yes, of course, your Honor.

23 THE COURT: Mr. Ahuja, I've used the term "presentence
24 investigation report or PSR," do you know what I was speaking
25 of?

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1 DEFENDANT AHUJA: Yes, your Honor.

2 THE COURT: Do you recall reviewing it previously in
3 this case?

4 DEFENDANT AHUJA: Yes, your Honor.

5 THE COURT: I believe the parties are asking me to
6 recalculate the guidelines in light of the acceptance of
7 responsibility credit that you and Mr. Shor have each become
8 entitled to as a result of these guilty pleas. I understand
9 that those will be changed, but do you have any other
10 objections to the presentence investigation report?

11 DEFENDANT AHUJA: No, your Honor.

12 THE COURT: Mr. Tarlowe?

13 MR. TARLOWE: Your Honor, this is probably
14 unnecessary, but I think the only thing I just wanted to add is
15 that to the extent we objected previously to certain findings
16 in the presentence report, we're now waiving those objections;
17 however, we recognize that the Court has already ruled on
18 those, has already previously calculated the guidelines, and we
19 have no objection to the Court relying on those prior findings
20 and the prior guidelines calculation with the one adjustment
21 for acceptance of responsibility.

22 THE COURT: Thank you.

23 Mr. Weddle, do you feel the same?

24 MR. WEDDLE: Yes, your Honor.

25 THE COURT: Thank you.

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1 And, Mr. Weddle, may I speak with Mr. Shor?

2 MR. WEDDLE: Yes, your Honor.

3 THE COURT: Mr. Shor, in our prior sentencing
4 proceeding there was a presentence investigation report that
5 was prepared. You recall our discussions about it. We've
6 had -- there were legal arguments and other arguments. You
7 recall as well in the prior sentencing that I made certain
8 findings about the presentence investigation report. Do you
9 have that recollection, sir?

10 DEFENDANT SHOR: I do, your Honor.

11 THE COURT: What I'm being asked to do now as a
12 consequence of the guilty plea I've just taken from you and
13 from Mr. Ahuja, is to modify my guidelines calculation to
14 reflect the acceptance of responsibility, but otherwise I'm not
15 planning on making further adjustments to the presentence
16 investigation report, except to the extent they relate to the
17 calculation of the guidelines. Your prior objections are what
18 they were.

19 Are there any additional objections that you make to
20 the presentence investigation report, sir

21 DEFENDANT SHOR: No, your Honor.

22 THE COURT: Then accept as modified. I am adopting
23 the presentence investigation report for each defendant as
24 previously done. I will simply change the guidelines to
25 reflect the acceptance of responsibility.

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1 Ms. Griswold, I spoke with you earlier about a
2 statement in connection with sentencing. I should also have
3 asked you whether the government has any objections. I know
4 you've read the presentence investigation report. I imagine
5 that you agree with my reflection of acceptance credit. Are
6 there any other objections or modifications to the presentence
7 investigation report?

8 MS. GRISWOLD: Just one modification. I think
9 throughout it makes reference to Counts One through Four, and
10 it doesn't impact the guidelines calculation, but I think it
11 could be noted that the portions of the presentence report that
12 talk about the four counts and the convictions on the four
13 counts should be modified to note that the conviction here and
14 the sentence is just for Count Three.

15 THE COURT: Thank you.

16 Mr. Tarlowe and then Mr. Weddle, I believe the
17 government's asking me to modify the presentence investigation
18 report to make clear that the conviction about which we are
19 speaking today is the product of today's guilty plea and not
20 the trial?

21 MR. TARLOWE: We agree it makes sense to do that, your
22 Honor.

23 MR. WEDDLE: We agree as well, your Honor.

24 THE COURT: I'll do what I can to make that clear.
25 Thank you.

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1 Ms. Griswold, may I hear from you or from your
2 colleague in connection with sentencing?

3 MS. GRISWOLD: Yes, I believe Mr. Gitner will speak.

4 MR. GITNER: Thank you, your Honor.

5 I intend to be brief and non-controversial. I do want
6 to thank your Honor for obviously paying very careful attention
7 to the submissions in this case. I feel a little silly saying
8 that frankly because I know your Honor pays careful attention
9 to everything that comes before you, but I think it's worth
10 saying out loud in the context of this case.

11 And I also want to thank defense counsel for their
12 engagement in the discussions that led to where we are today,
13 and frankly the manner in which they engaged with us. I also
14 wanted to say that out loud.

15 As your Honor indicated at the beginning of this
16 proceeding, we're sort of -- this is a somewhat not very unique
17 posture that we're in. But despite that uniqueness as with all
18 cases, the resolution we believe should send the message that
19 we stand behind the prosecution and the strong message that its
20 already set.

21 The uniqueness and the unique posture of the case,
22 which includes, frankly amount other things, in fact the
23 substantial restitution that has already been paid, allows for
24 this disposition. It brings finality through acceptance of
25 responsibility, which we always take very serious of course.

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1 It brings very serious felony convictions to the core
2 of the conduct alleged here. It preserves needed resources
3 which are now pointed elsewhere, including within the private
4 fund space and elsewhere, and we believe it uniquely does all
5 of this within and consistent with Section 3553(a).

6 So again, thank your Honor for the careful way you've
7 considered this matter right up to this moment. Frankly, that
8 said, I'll sit down and allow the proceeding to continue. We
9 stand by the prosecution.

10 THE COURT: Thank you very much.

11 Mr. Tarlowe, do you or does one of your colleagues
12 wish to speak in connection with sentencing?

13 MR. TARLOWE: No, your Honor.

14 THE COURT: May I speak directly with your client?

15 MR. TARLOWE: Yes, your Honor.

16 THE COURT: Mr. Ahuja, if you wish to speak with me in
17 connection with your sentencing, you are invited to do so.
18 You're not obligated to do so.

19 I do recall having spoken with you in connection with
20 the prior sentencing, and I do feel over these several years
21 that I do have a sense of you and this case.

22 If you would like to speak, you're invited. If you
23 prefer not to, simply let me know that.

24 DEFENDANT AHUJA: Given the circumstances, I prefer
25 not to speak.

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1 THE COURT: Of course.

2 Mr. Weddle, is there anything you or your colleague
3 would like to say in connection with sentencing?

4 MR. WEDDLE: May I have a moment, your Honor.

5 THE COURT: Of course.

6 MR. WEDDLE: Just very briefly, your Honor, and I
7 think to in a way echo in mirror image the statement made by
8 the prosecution, we do appreciate our ability to discuss the
9 matter with them and reach what I think is a result that
10 permits all the parties to essentially close the door on this
11 case.

12 We stand behind the way that we litigated this case
13 throughout and the defense, but we agree that this is a fair
14 resolution that should be accepted by your Honor.

15 THE COURT: Mr. Shor, at this time if you wish to
16 speak with me in connection with your sentence, you are invited
17 to do so. You are not obligated to speak with me, sir, and I
18 do recall our discussions at the prior sentencing proceeding,
19 but I want to give you that opportunity if you'd like to speak.

20 DEFENDANT SHOR: Thank you, your Honor. I couldn't
21 possibly be as eloquent as Mr. Weddle. Thank you.

22 THE COURT: I'm sure he appreciates that.

23 Thank you, sir.

24 DEFENDANT SHOR: Otherwise, I don't wish to say
25 anything, your Honor.

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1 THE COURT: All right. Thank you.

2 My practice usually is to take a break at this time
3 having heard from the parties so that I can reflect
4 appropriately on what has been argued because I do not come out
5 on the bench with a sentence in mind. Perhaps the defendants
6 in this case will recall that that is what I did with respect
7 to their sentencings, and then I will usually come out and
8 discuss with each defendant my rationale for the sentence
9 imposed and my hopes for their future.

10 We keep saying this is an unusual case. This is an
11 unusual case. There was a trial. There was extensive
12 proceedings on both sides of that trial, including extensive
13 sentencing proceedings, where I think all arguments that could
14 be made were made. And then there were of course the
15 posttrial, post-conviction proceedings that brought us to where
16 we are today, and so I don't think it is useful to take a
17 break.

18 I did want to say something. I'm still not sure what
19 to say, so you'll excuse what comes out. I've had this case
20 for four years and many of you, including in particular
21 Mr. Ahuja and Mr. Shor, have had the case for far longer. And
22 many times in the past period of years, we've all worked very,
23 very hard, and we've done so, at least for some of us, because
24 we believe in the criminal justice system. We believe in the
25 fairness of the process that is in place, and perhaps it may be

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1 that folks who are a party to this proceeding are or are not
2 fully satisfied with this resolution.

3 I do have confidence and comfort that everyone working
4 on this case has worked for justice and fairness. And to the
5 extent you've done that, you've succeeded and you have
6 confirmed the fairness of the process. Some of you will appear
7 before me again in the future. Some of you I hope, Mr. Ahuja
8 Mr. Shor, will not.

9 I've learned something through this case, and I hope
10 that you have as well, and I hope that you can find some
11 satisfaction in what you've learned through this case. And
12 with that, I will turn to the formal process of sentencing.

13 I will describe the sentence I intend to impose, but
14 give each time an opportunity to make legal objections before
15 the sentence is actually imposed.

16 I have considered as I must the factors set forth by
17 Congress in Section 3553(a), and they include the nature and
18 circumstances of the offense, the history and characteristics
19 of each of the defendants, the need for the sentence imposed to
20 reflect the seriousness of the offense, to promote respect for
21 the law, to provide a just punishment for the offense, to
22 afford adequate deterrence to criminal conduct, to protect the
23 public from further crimes by the defendant, to provide each
24 defendant with needed educational and vocational training,
25 medical care or other correctional treatment in the most

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1 effective manner.

2 I must consider the guidelines, and I've mentioned
3 that a few moments ago. I must consider the need to avoid
4 unwarranted sentence disparities, among similarly situated
5 defendants. And I need in some cases, though not in this one
6 because of other proceedings, to consider restitution to the
7 victims.

8 I mentioned earlier my guidelines calculations in this
9 case. For Mr. Ahuja, they are an offense level -- an adjusted
10 offense level of 36, a criminal history category of I, a
11 resulting guideline range of 188 to 235 months.

12 With Mr. Shor, there's an offense level of 32. A
13 criminal history category of I, and resulting guidelines range
14 of 121 to 151 months.

15 The parties have proposed to me an agreed upon
16 sentence that includes a sentence of time served, no imposition
17 of a term of supervised release, no fine, no forfeiture and no
18 restitution, and I am agreeing with each of the agreed upon
19 sentences to be imposed on each of Mr. Ahuja and Mr. Shor.

20 There was much reflection in coming to this decision,
21 and I did solicit additional briefing on the parties on the
22 propriety of such sentencings. I appreciate very much the
23 materials that you sent to me to give me insight that I was
24 missing into what is an appropriate sentence.

25 And so my intention is to vary downward and to impose

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1 on each of Mr. Ahuja and Mr. Shor sentences of time served with
2 no term of supervised release to follow, with no fine, no
3 forfeiture, and no restitution, but with the single \$100
4 mandatory special assessment that I cannot avoid the imposition
5 of.

6 I say that there is no restitution, but as each side
7 knows from the plea agreement, there were extensive restitution
8 efforts in connection with sentencing and thereafter. And so
9 to say there's no restitution is a little bit -- I don't mean
10 it to be misleading. It has been addressed in other
11 proceedings.

12 Ms. Griswold, is there any reason why I may not impose
13 that sentence on each of Mr. Ahuja and Mr. Shor?

14 MS. GRISWOLD: No, your Honor.

15 THE COURT: Mr. Tarlowe.

16 MR. TARLOWE: No, your Honor. The only thing is that
17 I believe that Mr. Ahuja paid the special assessment after the
18 first sentencing.

19 THE COURT: I will not make him pay -- to be clear,
20 and I know you all know this, if you've paid it already, you do
21 not have to pay it again. I have that out there because I
22 didn't know if it was paid.

23 MR. TARLOWE: Just to be clear, I believe it was paid,
24 but maybe if we could just say to the extent it's been paid,
25 that we'll get credit of what's already been paid.

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1 THE COURT: I completely agree.

2 MR. TARLOWE: And hopefully we won't ask for a refund.

3 THE COURT: I'll leave it to you to figure out the

4 other counts. You deal with the Clerk's Office on that.

5 Mr. Weddle, the same?

6 MR. WEDDLE: I believe the same is true, and we'll ask
7 for a refund.

8 THE COURT: Mr. Weddle, the larger question is, is
9 there any legal reason why I may not impose this sentence?

10 MR. WEDDLE: No, your Honor.

11 THE COURT: Thank you.

12 Mr. Ahuja and Mr. Shor, please rise.

13 Gentleman, after thinking about this Section 3553(a)
14 factors and the sentencing guidelines as they apply to your
15 respective cases, and after thinking as well about the
16 arguments that have been made to me by your attorneys and by
17 the attorneys for the government in connection with sentencing,
18 I have calculated the guidelines as I have. I have adopted the
19 presentence investigation reports as modified, and I am
20 imposing for each of you a sentence of time served with no term
21 of supervised release to follow, with no fine, with no
22 forfeiture, no additional restitution, additional to that
23 you've already arranged to pay, and with an obligation to pay
24 \$100 special assessment to the extent that you have not paid
25 that already.

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1 Mr. Ahuja, do you understand the sentence that I have
2 imposed?

3 DEFENDANT AHUJA: Yes, your Honor.

4 THE COURT: Mr. Shor, do you understand the sentence I
5 have imposed?

6 DEFENDANT SHOR: Yes, your Honor.

7 THE COURT: Gentleman, please be seated.

8 To the extent that you have not waived this in any
9 plea agreement that you may have with the government, you have
10 the right to appeal from your conviction and from your
11 sentence. If an appeal is something in which you are
12 interested, please speak with your attorneys because they
13 understand the process by which appeals are taken.

14 We've talked about this previously, there is generally
15 a two-week period after the filing of the written judgment for
16 the filing of the notice of appeal. I imagine the written
17 judgment will be filed sometime early next week, but it may
18 take a little bit longer.

19 So if appeal is something in which you're interested,
20 you'll please speak with your attorneys.

21 Mr. Ahuja, do you understand that

22 DEFENDANT AHUJA: Yes, your Honor.

23 THE COURT: Mr. Shor, do you understand that?

24 DEFENDANT SHOR: Yes, your Honor.

25 THE COURT: Ms. Griswold, does the government move to

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1 dismiss the open counts and the underlying counts?

2 MS. GRISWOLD: Yes, your Honor.

3 THE COURT: Motion to dismiss is granted.

4 Ms. Griswold, is there anything else we should be addressing in
5 today's proceeding?

6 MS. GRISWOLD: May I have a moment, your Honor?

7 THE COURT: Of course.

8 MS. GRISWOLD: No, your Honor. Thank you.

9 THE COURT: Thank you very much to all of you.

10 Mr. Tarlowe, from your client's perspective, is there
11 anything else -- or Mr. Finzi, from your perspective, is there
12 anything else to address in today's proceeding?

13 MR. FINZI: One housekeeping matter, your Honor. We
14 have conferred with the government about having our client's
15 passport returned. And one sort of touching aspect of what's
16 otherwise a very solemn proceeding, my client had made peace
17 with the fact that he would never see his father again in
18 India. Now that he's able to, he intends to travel there on
19 Monday, so we've made a request to the government to get the
20 passport back as soon as possible.

21 MS. GRISWOLD: I'm working on it, your Honor. I have
22 been speaking with pretrial. And now that I know the right
23 officer, I'm hoping we can get it back today.

24 THE COURT: Do you need anything from me? You have an
25 oral order to get it.

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1 MS. GRISWOLD: I will come if I need more back up, but
2 I think I will be able to track it down today.

3 THE COURT: Reach out to my chambers, to
4 Mr. Patterson, if you need anything from me.

5 MS. GRISWOLD: Thank you.

6 THE COURT: Mr. Finzi, I thank you.

7 But other than that, sir, which I certainly do hope is
8 resolved today, anything else you'd like me to know?

9 MR. FINZI: No, your Honor. Thank you.

10 THE COURT: Mr. Weddle?

11 MR. WEDDLE: No, nothing, your Honor.

12 THE COURT: All right. I don't know that there's
13 anything else to say. We've seemed to have said a lot today.
14 I wish you all well. We are adjourned.

15 (Adjourned)

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